IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3836 of 2007()

CR.NO.164/07 OF KATTOOR POLICE STATION

: PETITIONERS/ACCUSED:

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1. ASHIQ, S/O. AKBAR,
   ALAL HOUSE, MOORKKANAD P.O., IRINJALAKUDA,
   THRISSUR DISTRICT.

2. AKBAR, S/O. KHADAR, -DO- DO-.

3. NASEERA, W/O. AKBAR, -DO- -DO-.

4. MINOR NEJI,
   REPRESENTED BY NEXT FRIEND AND FATHER AKBAR-DO-.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   KATTOOR POLICE STATION, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3836 of 2007

Dated this the 26th day of June 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations under Section 498A I.P.C. The marriage subsists even now. The petitioners are alleged to be guilty of matrimonial cruelty of the culpable variety. Crime was registered on the basis of a private complaint filed by the petitioners before the learned Magistrate and was referred under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners pray, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner. In coming to this conclusion, I note that the marriage still subsists and arrest and incarceration of the petitioners is likely to mar the chances of re-conciliation in marriage. The defacto complainant was pregnant at the time of the complaint, it is alleged.

3. In the result, this petition is allowed. The petitioners shall be released on bail on the following terms and conditions.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 03/07/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 4 p.m on 04/07/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and thereafter, as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 04/07/2007, they shall be released on bail on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 04/07/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007